

Decision 05-07-013 July 21, 2005

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's own motion into the operations and practices of George Anthony Maciel, an individual, doing business as Alviso Rock, and of George Maciel Trucking, Inc., a California Corporation,

Respondents.

Investigation 94-09-001  
(Filed September 1, 1994)

**O P I N I O N**

Due to the passage of time, this matter is being closed. No further action will be taken with respect to the matters that are the subject of Order Instituting Investigation (OII) 94-09-001.

This matter was instituted on the Commission's own motion on September 1, 1994. At that time, George Anthony Maciel, doing business as Alviso Rock (Alviso) and George Maciel Trucking, Inc. (Maciel) were both highway permit carriers regulated by this Commission and engaged in the business of transporting property over the public highways of California. The Commission no longer regulates these carriers with respect to the subject matter of this OII.

This OII was instituted to address various alleged safety violations identified during a series of inspections undertaken by the California Highway Patrol in 1992 and 1993. A suspension was imposed for some of these violations. This OII was commenced based on allegations that Alviso had continued to operate during portions of the period when its operating authority was

suspended. It was also contended that Maciel and Alviso were alter egos of one another with a strong commonality of interest and that operations by one during the period of suspension was effectively operation by the other.

This matter went to hearing in March and April of 1995. In October 1995, the parties to the proceeding, consisting of respondents Alviso and Maciel and the Commission's unit then known as the Safety and Enforcement Division filed a motion for adoption of a settlement that in an effort to reach a "fair and reasonable result" recommended that Alviso pay a fine of \$2,000, Maciel pay no fine and requested that the Commission's decision addressing the proffered settlement also clarify leasing relationships between highway carriers when one of them has its operating authority suspended.

As a result of federal preemption, since January 1, 1995, the Commission no longer regulates the rates, routes or services of motor carriers of property, although it remains involved in various motor carrier insurance and safety programs. Due to very unusual circumstances, the appropriateness of this settlement has not been addressed by the Commission to date. Given the nature of the offenses addressed, including their discussion in the settlement and due to the significant passage of time since this settlement was offered, it is appropriate that no further action be taken with respect to this matter other than closing the proceeding.

### **Comments on Draft Decision**

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311(g)(1) and Rule 77.7 of the Commission's Rules of Practice and Procedure. No comments were filed.

### **Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Philip Weismehl is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. This OII was opened nearly ten years ago.
2. Hearings were conducted and a settlement offered by the parties.
3. The settlement has not been addressed and no other action has occurred in this docket for several years.

### **Conclusions of Law**

1. This OII concerns a subject matter that is no longer within the Commission's jurisdiction.
2. The record and settlement indicate that the offenses involved were not extremely serious.
3. Due to the significant passage of time without action, it is appropriate that this OII be closed without taking any further action with respect to the activities that are the subject of the OII.

## **O R D E R**

**IT IS ORDERED** that Order Instituting Investigation 94-09-001 is closed.

This order is effective today.

Dated July 21, 2005, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY

I.94-09-001 ALJ/PSW/tcg

DIAN M. GRUENEICH  
JOHN A. BOHN  
Commissioners